THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.2367 of 2007

09.2.2007

Between:

Ashraful Madaris Educational Society, represented by its Secretary,
Mr.Syed Mujeebuddin, S/o.Syed Mohiuddin

... Petitioner

AND

The Principal Secretary, Government of Andhra Pradesh, Revenue Department, Secretariat, Hyderabad
And others

... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.2367 of 2007

ORDER:

The petitioner herein is an educational society registered under A.P. (Telangana Area) Public Societies Registration At, 1350 Fasli. The society purchased land admeasuring 8719 Sq.meters in survey Nos.75 and 77, T.S.No.46/1,2,3, Block E, Ward 211, situated at Talab Chanchalam, Yakutpura, Hyderabad. The society filed declaration under Section 6(1) of the Urban Land (Ceiling & Regulation) Act, 1976 (the Act, for brevity), declaring the said land. The Special Officer and Competent Authority, Urban Agglomeration, Hyderabad – second respondent herein; passed final orders under Section 8(4) of the Act on 01.10.1994 determining the petitioner society as surplus landholder to the extent of 5634.42 Sq.mts. Subsequently, the second respondent issued the impugned notice dated 23.12.2006 under Section 10(5) of the Act to the Principal of the petitioner society directing to handover possession of the surplus vacant land. Aggrieved by the same the present writ petition is filed.

Learned Counsel for the petitioner submits that the petitioner being an educational society is entitled to seek exemption under Section 19(vi) of the Act. He points out that while passing the final orders on 01.10.1994 under Section 8(4) of the Act, the second respondent herein advised the petitioner to file an application before the Government under Section 19(vi) of the Act and that by

reason of the said provision, the petitioner society cannot be declared as surplus landholder. He further points out that the second respondent did not issue the particulars of vacant land while issuing notifications under Sections 10(1) and 10(3) of the Act and, therefore, the impugned notice is bad and illegal.

The petitioner does not specifically challenge the final orders of the second respondent dated 01.10.1994 nor disputes the issue of notifications under Sections 10(1) and 10(3) of the Act before issuing the impugned notice. Therefore, as rightly pointed out by the learned Assistant Government Pleader for Revenue (ULC), without challenging the final orders under Section 8(4) of the Act, the petitioner could not have challenged the notice under Section 10(5) of the Act. This is well settled. Be it also noted that under Section 10(5) of the Act, it is the duty of the second respondent to issue notice to every person, who is inoccupation of the land declared to be surplus under the Act asking delivery of possession. Therefore, this Court does not find any infirmity in the impugned notice. If so advised, it shall always be open to the petitioner to prefer appeal under Section 10(5) of the Act, in which event, the appellate authority shall consider the appeal without in any manner being influenced by the observations made herein above.

The writ petition, with the above observations, is accordingly dismissed. No costs.

(**V.V.S.RAO,J**)

February 09, 2007.

NOTE:

Dispatch order copy by
12.2.2007.
(By order)
YS